

Members

Rep. Markt Lytle, Chair
Rep. Dale Sturtz
Rep. Richard Mangus
Rep. Phyllis Pond
Sen. Greg Server
Sen. Harold Wheeler
Sen. Allie Craycraft
Sen. James Lewis



NATURAL RESOURCES STUDY COMMITTEE

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MEETING MINUTES¹

Meeting Date: October 13 and 14, 1999
Meeting Time: 1:00 p.m.
Meeting Place: Indiana Dunes State Park, Nature
Center
Meeting City: Chesterton, Indiana
Meeting Number: 4

Members Present: Rep. Markt Lytle, Chair; Rep. Dale Sturtz; Rep. Richard Mangus;
Sen. Harold Wheeler; and Sen. James Lewis.

Members Absent: Sen. Greg Server; Rep. Phyllis Pond; and Sen. Allie Craycraft..

Call to Order. Rep. Markt Lytle, Chair of the Natural Resources Study Committee, called the meeting to order. After an introduction of the Committee members, he welcomed the Honorable Sheila Brillson, Mayor of Michigan City, and Rep. Scott Pelath, and asked them to speak on the first topic.

Municipal Regulation of Swimming in Lake Michigan. Mayor Brillson reported on the swimming deaths that have occurred in Michigan City during the last several years. The City would like to be able to regulate swimming in Lake Michigan for the following reasons. The Michigan City police force would like to be able to assist the staff of the Department of Natural Resources (IDNR) in closing down beaches when Lake Michigan is too rough. The City would like to be able to take some action against those that go into dangerous waters. The City's purpose is to save lives, and they are open to whatever will prevent drowning deaths. The Mayor, as a parent and as a mayor, is familiar with the tragic aspects of a busy lake front. She saw a seven-year-old pulled from Lake Michigan. An adult may endanger himself or herself, but children sometimes need protection. Many swimmers stay in the water during a rescue. Lake Michigan is dangerous and changes from a calm to turbulent body of water, full of dangerous rip currents. (Rip currents are caused when winds push waves over shallow sandbars. The sandbars give way to the current that drags swimmers too far out into the lake.)

The community is becoming increasingly more dependent on tourism dollars, which increases the number of visitors. Local residents know about the dangers. However, visitors are often

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unfamiliar with the dangers of the Lake. Visitors unfamiliar with the Lake sometimes do not heed the City's warnings. The City has invested in new universal signs for all, including the non-literate. They have used life guards and the police to warn swimmers as well as a flag system. The City also maintains a website. As a community, they have done an exceptional job of trying to educate swimmers.

Often times alcohol is involved. In 1998, five people drowned. IDNR regulations at the state park have more enforcement power than what the City has on the lake front. The City would like to have the same powers. In addition to swimmers drowning, swimming in dangerous waters also puts the life guards at risk. Members of the police dive team must also go into the Lake at their own peril. The City has little or no power to remove people from the lake. The goal is to make the beaches safe.

Pat Donahue, with Michigan City, emphasized that the City's focus is not on boaters. Their efforts to warn swimmers have not been completely successful. The City experienced another drowning during the 1999 summer. A young man from Elkhart drowned. They would like to be able to place signs near the beaches that would indicate that it is a violation of the Indiana Code to swim during times when a red flag is flying and the municipality has determined that lives are at risk. The municipality in its ordinance would have a method of notifying the public. The prohibition would have the weight of law. Swimming at dangerous times would be a violation of the municipal ordinance.

Now lifeguards tell swimmers that it's not a good idea to go into the water. But they can not prohibit swimmers from going into the water. IDNR can make arrests when conditions are posted. The state owns the bed of the Lake, but the municipality owns the beach. The City's authority stops at the edge of the water.

Terry Zeller, Superintendent of Michigan City Parks, indicated that the City decides if the water is dangerous based on input from the lifeguards. The lifeguards go into the water to see if the water pulls them. People are first notified in parking facilities, and a warning is distributed on local radio as well as on areas along the beach. The City has a mechanism whereby they can know within 30 to 45 seconds if someone is in danger.

Colonel Larry Allen, Director of the Division of Law Enforcement, IDNR, indicated that the IDNR does not patrol for swimming violations. They patrol for boating violations. The reason that no one can make an arrest for swimming is because there is no law against it. Any police officer can make an arrest pertaining to boating violations. The IDNR would assist divers making a recovery if asked. The IDNR does not intend to enforce the no swimming regulation if it passes. It would not add to their duties because it would be enforced by the City.

Doug Wickersham, Property Manager at Dunes State Park, noted that arrests are made on shore. Michigan City can not tell people to get out of the water. The county sheriff's department might be able to make an arrest for a crime committed on a boat. Currently there is no law that says swimmers can not go into Lake Michigan.

Jeannette Adams, attorney for the committee, noted that the state does not give authority to the City to go outside of its boundaries to arrest people on state land. The City wants to take city law enforcement outside the city boundaries.

Sen. Wheeler expressed his concern about making laws to protect people against themselves.

Darrel Garbacik, Recreation Director for Michigan City Parks and Recreation, explained that the City hires lifeguards who are on the front line. They have between 10 and 14 during the

week and on the weekends. The City has tried to educate swimmers and provide a warning systems. He noted that in some drownings the warnings were ignored. The deaths may have been preventable if common sense had been used. He supports legislation that would give municipalities the authority to regulate swimming.

Rep. Scott Pelath noted that the original legislation was designed for Lake Michigan and municipalities that border Lake Michigan. They want to grant municipalities the authority to construct their own ordinances. The fine for violations of the ordinances would be determined by the ordinance.

Ed Picorny, a local swimmer, indicated that the committee may want to structure any proposed legislation so that it does not affect experienced swimmers who have a legitimate purpose in the Lake. The proposed legislation should not unduly burden people. The proposed changes to the law have not been widely publicized. Homes are being constructed along the beach, and the prospective owners may not be aware of the boundaries. Surfers and wind surfers enjoy the wind and the surf of Lake Michigan. Other coastal areas do not limit surfers or swimmers. Novices can not learn if they are not allowed to swim in rough waters. Police on ATVs tell people to get out of the water. The police may not know who is an experienced, legitimate swimmer and who is not. The police may not differentiate between responsible and irresponsible people. He does not want the extreme to happen. Moderation is necessary. Marinas have not been informed about the proposal. People in the Sheridan Beach Homeowners Association do not know about the proposal. Residents do not understand how the bill will affect them. He is against an ordinance that would prevent him from using certain equipment. Experienced swimmers can avoid rip currents.

Rep. Lytle explained the legislative process and that the proposal would give authority to local units of government. The city would need to pass an ordinance. The legislative process is long and provides plenty of opportunity for public input. If the law were passed, the public would still have plenty of opportunity to have input at the local level.

Sen. Lewis made a motion that the Committee recommend the concept of allowing municipalities to pass ordinances to regulate swimming. The motion was seconded by Sen. Wheeler. Rep. Lytle asked local officials to make sure that the public is informed of the proposal. He stressed that legislation will not allow or disallow people from entering the water. It would, however, enable locals to enact an ordinance. On a roll call vote, the committee approved the motion by a vote of 5-0.

The Health of Indiana Rivers and Lakes Relative to Fisheries and Outdoor Recreation.

Ronald Yagelski, representing Charter Boat Captains, raised his concerns about the lack of fish in Lake Michigan. He is particularly concerned about the decline in lake trout. The charter boat business is in trouble because of the lack of fish. This year they have taken larger fish, but the numbers have decreased. Charter boats help the economy and attract tourism dollars. However, if there are no fish to catch, the tourists will not come.

The federal government has a program in which they restock lake trout, but the IDNR biologist tells the federal government where to stock the lake trout. According to the biologist, Lake Michigan is a secondary location for lake trout restocking. The captains would like the area to be designated as a primary stocking site. The federal stocking program began in 1967. Nationwide, the federal government stocked 2.5 million fish. Indiana's share was 660,000. The number of fish stocked, however, has continually dropped. From 1967 to 1985, Indiana has received 130,000 lake trout every year. From 1985 to 1995, there were only two more stockings.

According to Mr. Yagelski, Wisconsin purchased the privately owned commercial perch fleet in

1996 due to the decline in the number of perch and the resultant decline in the perch fishing industry. Michigan bought out its fleet in 1995 for \$19 million. Indiana did not buy out its fleet. This is the third year that fishing for lake trout has not been possible. Two fish were caught on 26 boats at a mayors' fishing expedition. The state is not stocking enough fish on the reefs. The charter boat captains want IDNR to ask for 130,000 fish, or 2% of the total to be restocked at three different sites. The trout have not reproduced since 1967. The federal program does not appear to be working. He canceled 60 fishing charters because of the lack of fish. Nine times this year he has caught no fish. He does not charge his customers if no fish are caught.

Chuck Lentine, Michiana, noted that the lack of fish affects the recreational industry. Less fishing affects manufacturers of rods and reels as well as bait shops. Hundreds of millions have been lost in last few years. He did not fish Lake Michigan for seven weeks. Lake Michigan had the greatest fisheries in the world in the '70s. They had over 200 charter fleets. Now only 40 remain.

Mike Hampel, Hoosier COHO Club, stated that he charts boats for 8-hour rides and charges from \$280 to \$400. Ten years ago the area had the best lake trout in the world. It was not uncommon to catch a 30-pound lake trout. Now the fish are small. According to Mr. Hampel, the IDNR will not ask for more fish. The fish should be returned. The IDNR wants to place the fish in deeper waters in order to reintroduce them. No fish is stocked in the southern end of lake. He proposed that once the federal government has stocked fish for all states, if some fish are remaining, Indiana should request them. The IDNR should encourage the federal government to restock near the shore. The IDNR wants them stocked offshore so they can reproduce.

Bill James, Chief of Fisheries, IDNR, indicated that the federal program is designed to reintroduce lake trout to the area, not to provide a "put and take" program for anglers. The number and type of fish in the lake have changed dramatically from its natural state. First, the sea lamprey, an eel like parasite, invaded the waters and destroyed many lake trout. A combination of the damage brought about by the sea lamprey and commercial pressures reduced the number of lake trout which promptly resulted in the creation of the Great Lakes Fisheries Commission in 1955. The Commission is composed of representatives from several states and a Native American Tribe. The purpose of the Commission was to restore lake trout and find a way to eliminate the sea lamprey. The Commission provided a forum to coordinate joint management. By 1960, the sea lamprey had been controlled. Also in 1960, the federal program began to restock the lake trout. The state has experienced some success in reintroducing coho salmon. However, the reintroduction of the lake trout is very different program. The goal of the program is to allow the population to build itself up so that it can become self sufficient. The goal is to shut down the federal program. The Commission has to balance the ability to harvest with the need to build the population. The program is a restoration program of a fish that is native to the lake that is designed to bring stability to the fish populations, which have fluctuated.

Some lake trout were not reproducing. The reason for the lack of reproduction may have been that the genetics of the fish were not appropriate for the lake. Years of research have gone into determining the cause. The fish spawn at 200-300 feet of water. The IDNR stocked the fish in locations where they want the fish to return to spawn. Every lake trout stock is marked with a fin tag to enable the Commission to learn where the fish are moving. The program was not working, so in 1985 the Commission determined that a major shift was needed. The Commission decided to restock the fish in their historic spawning locations. The fish are taken out by boat and are pumped down into the reefs. The high priority stocking stations have been refuges and reefs. Lake trout is a slow growing fish that is long lived. It spawns in the fall in 40 degree water.

Tagging data suggest that trout caught in Indiana were stocked in Michigan or Wisconsin. Fish do not stay where they are initially placed. They only return to spawn. In the interim, they travel, depending on food availability and temperature. Indiana does not appear to have the right habitat for spawning. Today, the fish are not reproducing, and the Commission is not sure why.

The IDNR does not want to just stock the fish, allow them to be caught, and restock them because the federal government is not interested in financing the fishing industry in Indiana. They are interested in the long-term reintroduction of the species. The IDNR would like to fill the charter boats with fish, but Lake Michigan and mother nature do not. Lake Michigan has five managers (four states and a Native American tribe). Each has one vote. The Commission can not just allow fishing in Indiana and not in other states involved in the Commission. The IDNR will not act unilaterally and try to make a deal with the federal government to allow fishing only in Indiana. The State must work with other members of the Commission. Indiana can not just support its fishing industry because four other jurisdictions could argue the same. The reintroduction of lake trout would no longer be biologically based but socially determined.

Mr. James indicated that it might be ten years before biologists learn about what happens to fish released during one year. He is sensitive to charter boat captains and to the fact that the state must provide harvesting opportunity without killing the golden goose. The key might be more restriction until the fish is restored.

Tom Cooper, a charter boat captain, indicated that Michiana and Julian's reefs had direct stocking.

Pete Hanson, a charter boat captain, indicated that the lake trout were good in November, but unavailable in the summer.

Dick Prackett, Michigan City Charter, noted that Michigan does not put any money in program. Lake trout fishing is better in other harbors than in Indiana. Native Americans still use gill nets that are no longer allowed by the federal government.

Nick Poulike, Lake Michigan Charter Boat Association, noted that tourism suffers when the charter boats are not operating.

Campground Reservation Priority for Indiana Residents. Dave Sobecki, a camper, suggested that Indiana residents should have priority over out-of-state residents. He had about 100 signatures supporting his views. He requested that Indiana residents be allowed to reserve campsites one week before out-of-state campers. Indiana state parks are far superior to state parks in surrounding states, so a lot of out-of-state campers come to Indiana. He has sent in reservations on March 1, the first day, and has been rejected because many parks were full. He was able to obtain one reservation out of five. In some instances, only 20% of the campers are from Indiana. He proposes to allow residents to reserve campsite on February 1 and for five days thereafter. Some out-of-state post offices are closer to the state parks, so out-of-state reservations arrive first.

Joanne Phillips, a camper, described out-of-state residents who were destroying the campsite, noting that the IDNR did not police the area. She is concerned about the IDNR lack of enforcement at campground rules. At Potato Creek, two out of three campers are from Illinois. Out-of-state campers are charged \$3 more than residents. Indiana charges \$11 per night with a \$1 registration fee. Michigan charges \$35 for the weekend. Campers must pay \$4 each time they enter the park. Michigan residents visit Pokagon, and Ohio residents frequent Brookville.

Mr. Wickersham indicated that there is no uniform reservation policy. Each park decides how

the reservations are handled. Reservations go to each individual park. Half of campsites are first come first serve. Tippecanoe does not use reservations at any time. Some parks do not take reservations. Requests for reservations are processed daily.

Dennis Clark, Chief, Water Quality Standards Section, Office of Water Management, Indiana Department of Environmental Management, introduced Amy Shaeffer who conducted a study to determine how much fish people eat. The study was inspired by concerns about the water quality in the Great Lakes area (Exhibit 1).

Tim Maloney, Hoosier Environmental Council, distributed the 1999 Indiana Fish Consumption Advisory and Air Raid: Mercury Falling into Indiana Lakes. Air Raid outlines recommendations of the Council, which include more notice of fish consumption advisories and additional distribution of the advisories. Notices should include posting signs at popular public fishing areas. Notices should also be on fishing licenses sold in Indiana with the suggestion to refer to advisories if the angler eats fish. The Council also recommends more testing on fish and examination of the health of fisheries. The Council would like to see more regulation of mercury producing sources, such as coal fired power plants and incinerators where substances with mercury in them are burned. He noted that the health industry is trying to reduce mercury in the equipment used by the industry.

A survey of coal power plant was designed to determine what was being done to take mercury out of the environment. Seventy-eight plants were surveyed, four of which were in Indiana. Some voluntary programs are underway. Some companies are moving toward a more environmentally friendly form of energy production. Some have green power programs that allow consumers to choose energy from environmentally friendlier sources.

The Council is not interested in telling people not to fish, but the state should not accept contamination and should work to reduce it. A decrease in pollution would result in a positive impact on the fishing industry. To have healthy outdoor recreation in order to help local economies, the state needs a healthy environment.

IDNR Tree Seedling Program. Burney Fisher, State Forester, provided an update on the tree seedling program. Hoosiers like to plant trees, and the demand exceeds the supply. Currently, in Indiana there are not enough seedlings from public and private sources. A few years ago the demand for tree seedlings reached a crisis state. Two years ago, the state sold 4.5 million. Last year, the IDNR sold 5.5 million. This year the IDNR anticipates selling 6 million. The trees are sold in the fall and shipped in spring. The IDNR nurseries, however, are not designed to produce 6 million seedlings, and they are working over capacity. The General Assembly has appropriated \$280,000 for each of next two years to expand nursery production.

The committee recessed at approximately 5:30 p.m. The committee reconvened at 9:00 a.m. on Thursday, October 14.

Historic Bridges. John Molitor and Marsh Davis, Historic Landmarks Foundation, provided the Committee with an overview of the need for the preservation of historic bridges (See Exhibit 2). The IDNR is the caretaker of the state's heritage. In 1987, the General Assembly provided \$500 for the preservation of each historic bridge. Since 1987, the funding has been increased to \$1,250. This funding is official acknowledgment of the importance of historic bridges. Historic bridges are economically important in areas such as Parke County. Counties can accumulate funds over a period of several years to be used to match federal dollars that are available for historic bridge preservation. Roughly 96 covered bridges exist in Indiana; 52 are listed in state or national registers as historic bridges. Senator Richard Lugar supported an initiative that provided \$8 million per year to recognize and preserve covered bridges around the country. Unfortunately, metal, iron, and masonry bridges have not been as

cherished. More than half of these bridges are gone. The Foundation would like to see non-covered bridges protected in the same fashion that covered bridges are. By the year 2000, it is estimated that Indiana will have fewer trestle bridges than covered bridges. The state needs to act fast to save its heritage. He proposes a cap at \$70,000 from the General Fund for the preservation of non-covered historic bridges listed on the state or national registers. Registration is a voluntary program. Counties have authority to object to being listed in the national or state register. The total number of bridges that would be eligible is approximately 604 bridges. Realistically, maybe 56 bridges would be preserved.

Travis Whorl, Indiana Association of Counties, expressed his concerns about the problems counties experience when they preserve historic bridges (Exhibit 3).

Clara E. Rider, Carroll County Commissioner, also expressed her concerns pertaining to the preservation of historic bridges. She noted that the county is charged with providing for the safety and health of the citizens. She supports preservation and has attended and submitted grant requests for the restoration of a bridge that the community asked the Commissioners to support. She supported the bridge restoration because the bridge was not located on a heavily traveled road. The state paid for 80% of the restoration.

Restoration is not the least expensive alternative for the county. Counties have to build new bridges that will withstand the weight of school buses and farm equipment. The county wanted to move a bridge, but the IDNR would not allow them to because moving the bridge would have destroyed wildlife habitat. The Indiana Department of Transportation, however, funded the project. In her county, bridge advocates have identified 29 other bridges that they wish to preserve, but the commissioners believe that new bridges are necessary on well-traveled roads because these roads must have weight limits of 20 tons, double lanes, and no dangerous curves. Iron bridges are set on a concrete abutment and can not be fastened. She does not want a vehicle to hit the corner of the bridge. She stated that the county can not save all of the historic bridges because it would impractical for the safety of citizens. The preservation of historic bridges is a local issue. The county commissioners decide, but with a change in the law in 1998, the commissioners must revisit their decisions. The federal government permits counties to take down bridges and store them in a safe spot. Taxpayers would pay for the storage. (See Exhibit 4.)

Bob Bullard, Engineer and Project Manager, AECON, Inc., shared his frustrations with trying to restore or reconstruct a bridge. He stressed that the process can be long and time-consuming. In one instance, he submitted plans to the IDNR's Historic Preservation Section. Once his plans were approved, he found that he could not construct in a floodway. After he received a floodway permit, IDNR had to determine if the project destroyed wildlife habitat. On another project, the IDNR wanted the county to bypass the location. However, on one side was a wetlands. In order to reroute the bridge to the other side, the county would have to go through a house at increased costs. Restorations need to carry loads comparable to new bridges. Restoring a bridge to withstand comparable weight can cost as much as constructing a new one. Additionally, a restoration may require more maintenance than a new bridge. His company designs and constructs new bridges.

Rep. Sturtz recalled an instance where a bridge was replaced and in doing so the habitat for the endangered Indiana bat was destroyed.

Mr. Davis indicated that the Carroll County issues were more complicated than local and state concerns. Oftentimes preservationists take the blame for other entities. Both Carroll County bridges involved federal funding. If a county accepts federal funding, it must abide by federal requirements. Communication among affected entities can be a problem. The Foundation is working with federal, state, and local entities to develop a process that will improve

communication among all parties involved. Mr. Molitor suggested that Build Indiana Funds should or could be used to move historic bridges.

Preservation of Cemeteries. Mr. Molitor and Mr. Davis recommended that historical societies provide volunteers to inventory cemeteries. Historic Landmarks could raise the visibility of the project and perhaps solicit private donations. The IDNR could coordinate the process. The Foundation would like to see the state support the completion of the inventory by 2003.

The Carroll County Commissioner explained that Carroll County had two cemeteries that disappeared. She noted that a state road was built over one cemetery. If the county had built a road, the county would have been required to move the cemetery. Only a few headstones from the cemetery remain. On another occasion, an individual bought property and found a few headstones in a nearby woods. The seller maintained that no cemetery was on the property. She speculated that the cemetery was probably located in a field and that the farmer probably moved the headstones into the woods and plowed over the cemetery.

Holly Jenks, LaPorte County Pioneer Cemetery Commission, supported the preservation of cemeteries (Exhibit 5).

Overview of the Indiana Dunes State Park. Mr. Wickersham stated that the Indiana Dunes State Park was the result of efforts to establish a national park. The park was established in 1925 and contains a little over 2,000 acres. Industry is located on both sides of the park. A majority of the park's visitors are from Chicago. However, the out-of-state visitors generate a lot of revenue. The park is scheduled to undergo major changes. They plan to replace substructures and utilities before campground are improved. They have approximately 300 campsites. The number of campsites will decrease in order to update the facilities. Two-thirds of the park is a dedicated nature preserve. The park receives between 800,000 to one million visitors per year. He estimates that the park is about 80% self-sufficient. They do not have maintenance expenses associated with cabins or other facilities as other parks do.

Next meeting date. The next meeting was scheduled for Tuesday, October 19, in Peru at the farm of Russel Bellar, where the committee will discuss shooting preserves.

Adjournment. Rep. Lytle adjourned the meeting at approximately 12:30 p.m. The committee members viewed an IDNR canine demonstration.